

**DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JACK SOTO,

Plaintiff,

v.

**F & M MAFCO, INC., CHRISTIANSTED
EQUIPMENT LTD, and DAN McKENNA,**

Defendants.

Civil Action No. 2009-096

Attorneys:

Rachel Morrison, Esq.,
St. Croix, USVI
For the Plaintiff

Charles Lockwood, Esq.,
St. Croix, USVI
For the Defendants

ORDER

THIS MATTER is before the Court on the Defendants' Motion to Dismiss, pursuant to the Order of the Arbitrator, which was filed on September 20, 2011. (Dkt. No. 33). Plaintiff has not filed a response.

On June 8, 2010, the Court granted Defendants' Motion to Stay Proceedings Pending Arbitration, compelled arbitration, and stayed the case during the pendency of the arbitration. (Dkt. No. 29). In the instant Motion to Dismiss, Defendants seek dismissal of the case on the grounds that arbitration has been completed. Defendants include with their Motion the Arbitrator's Order dismissing Plaintiff's claims with prejudice. (*See* Dkt. No. 33-1).

An arbitrator's decision is binding under the Federal Arbitration Act unless "an arbitrator manifests an infidelity to her obligation to interpret the agreement at issue, or there is corruption,

fraud or partiality, or a party was denied a fundamentally fair hearing.” *Apex Fountain Sales v. Kleinfeld*, 818 F.2d 1089, 1094–95 & n.4 (3d Cir. 1987) (citations and internal quotations omitted). Here, Plaintiff has not opposed Defendant’s Motion to Dismiss, or otherwise alleged that the Arbitrator’s decision is infirm. Because arbitration has been completed and Plaintiff’s claims were dismissed with prejudice by the Arbitrator, the Court finds that dismissal of the action with prejudice is appropriate. *Bouton v. Government of Virgin Islands*, 987 F.2d 162, 168 (3d Cir. 1993) (“Since the Union agreed to arbitrate the dispute, the Union is bound by the arbitrator's decision to dismiss its claims.”). Accordingly, the Court will grant Defendants’ Motion.

UPON CONSIDERATION of Defendants’ Motion to Dismiss, the entire record herein and for the reasons stated above, it is hereby,

ORDERED that Defendants’ Motion to Dismiss is **GRANTED**; and it is further

ORDERED that the case is **DISMISSED WITH PREJUDICE**.

SO ORDERED.

Date: March 14, 2012

_____/s/_____
WILMA A. LEWIS
District Judge